



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF INSPECTOR GENERAL

AUG 22 2002

ED-OIG/A03-B0001

Mr. James Manning
Acting Chief Operating Officer
Federal Student Aid
U.S. Department of Education
Union Center Plaza Building
830 1st Street, NE, Room 112G1
Washington, DC 20202

Ms. Sally Stroup
Assistant Secretary for Postsecondary Education
U.S. Department of Education
Room 7115
1990 K Street, NW
Washington, DC 20006

Dear Mr. Manning and Ms. Stroup:

This ***Final Audit Report*** (Control Number ED-OIG/A03-B0001) presents the results of our audit procedures at Federal Student Aid (FSA) for monitoring the Ability-to-Benefit (ATB) test publishers approved by the U.S. Department of Education (ED): American College Testing (ACT), The College Board, CTB/McGraw-Hill, and Wonderlic, Inc. (Wonderlic).

A draft of this report was provided to FSA and the Office of Postsecondary Education (OPE). In their joint response, FSA appears to concur with our recommendations for Finding Nos. 1 and 2. However, OPE did not concur with our recommendation for Finding No. 3. We summarized the responses after each finding, and a copy of the complete response is provided as an attachment to this report.

AUDIT RESULTS

The objective of our audit was to determine and evaluate FSA's monitoring methods for ED-approved ATB test publishers for the period of July 1, 1997, through June 30, 2000. During our audit we found that—

- FSA does not have an effective monitoring system in place to ensure that ED-approved ATB test publishers comply with applicable laws and regulations and with the terms of their agreements with the Secretary;
- The agreement between ED and ACT for its Assessment test does not meet Federal requirements; and

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Our mission is to ensure equal access to education and to promote educational excellence throughout the Nation.

- Federal regulations need to be improved to clearly establish accountability when a student receives funds under Title IV of the Higher Education Act of 1965, as amended (HEA), on the basis of an improper ATB test administration.

Finding No. 1 Oversight of ED-Approved ATB Test Publishers Needs Improvement

FSA does not have an effective monitoring system in place to ensure ED-approved ATB test publishers comply with applicable laws and regulations and with the terms of their agreements with the Secretary. ED-approved ATB test publishers failed to comply, and continue to fail to comply, with the terms of their ATB agreements and with applicable laws and regulations, and as a result, Title IV, HEA funds may be disbursed to ineligible students.

Section 484(d)(1) of the HEA states—

In order for a student who does not have a certificate of graduation from a school providing secondary education, or the recognized equivalent of such certificate, to be eligible for any [Title IV program] assistance . . . [t]he student shall take an independently administered examination and shall achieve a score, specified by the Secretary, demonstrating that such student can benefit from the education or training being offered. Such examination shall be approved by the Secretary on the basis of compliance with such standards for development, administration, and scoring as the Secretary may prescribe in regulations.

The initial list of eight approved ATB tests was published in the Federal Register, on October 25, 1996 (61 FR 55542). Efforts by FSA to develop management controls over test publishers' administration of their ATB programs did not begin until February 2002, after the five-year approval period for the initial list of ATB tests had expired. In February 2002, FSA established a system for receiving and logging test publishers' three-year analyses of ATB test scores and for sending reminder notices to test publishers, to notify publishers when the test approval is scheduled to expire. Our audit did not include a review of this new system.

OMB Circular A-123 (A-123) requires Federal agencies and managers to develop and implement management controls that reasonably ensure that laws and regulations are followed. In addition, the United States General Accounting Office's "Standards for Internal Control in the Federal Government" states, "Internal control should generally be designed to assure that ongoing monitoring occurs in the course of normal operations."

FSA's procedures do not ensure that ATB test publishers comply with their agreements with the Secretary.

Under 34 C.F.R. § 668.150(a), "If the Secretary approves [an ATB test], the test publisher must enter into an agreement with the Secretary that contains the provisions set forth in paragraph (b) of this section before an institution may use the test to determine a student's eligibility for Title IV, HEA program funds." We found that ED-approved ATB test publishers did not comply with the criteria in 34 C.F.R. § 668.150(b), as described below:

- Under 34 C.F.R. § 668.150(b)(3), a test publisher must—

Decertify a test administrator for a period that coincides with the period for which the publisher's test is approved if the test publisher finds that the test administrator—

- (i) Has repeatedly failed to give its test in accordance with the publisher's instructions;
 - (ii) Has not kept the test secure;
 - (iii) Has compromised the integrity of the testing process; or
 - (iv) Has given the test in violation of the provisions contained in § 668.151
- The process that ACT uses to certify an independent test administrator (ITA) for its Career Programs Assessment Test (CPAt) does not provide adequate assurance that the ITA is not affiliated in any way with all of the institutions for which he or she may perform CPAt ATB testing.
- ACT does not have any procedures in place to monitor the testing activity of ITAs for its CPAt. Our review of ACT's file documentation for a sample of 25 examinees from the universe of 629 examinees that retested on the same CPAt form at the same institution in consecutive months during the period July 1, 1997, through June 30, 2000, revealed that 20 (80 percent) were retested improperly. Also, our analysis of the universe of 9,179 examinees who were administered a retest of the CPAt examination during the period July 1, 1997, through June 30, 2000, identified approximately 400 instances in which examinees were improperly tested twice on the same CPAt form, during the same month, at the same institution.¹
- Wonderlic did not begin to monitor the retesting activity of ITAs for its Wonderlic Basic Skills Test (WBST) until January 2001, over four years after the test was approved for ATB purposes. We identified 1,270 applicants who passed an improper retest of the WBST for the period July 1, 1997, through November 12, 2000. Of the 1,270 applicants, 724 received \$3,362,839 in Title IV, HEA funds according to the National Student Loan Data System (NSLDS).
- Under 34 C.F.R. § 668.150(b)(5)(iii), a test publisher must, "provide the test administrator with software that will . . . [p]rohibit any changes in test taker responses or test scores."
- The College Board's Windows and DOS versions of its Accuplacer test allow test administrators to modify test takers' database records including test scores.
- Under 34 C.F.R. § 668.150(b)(7), a test publisher must, "[k]eep for a period of three years each test answer sheet or electronic record forwarded for scoring and all other documents forwarded by the test administrator with regard to the test"

¹ Our review revealed 410 cases where this set of circumstances occurred. We did not report the exact number because the test date was not always accurate, as discussed later in this finding, and because we did not confirm or sample the test dates to the original records.

- The *ACT Assessment User Handbook* states that: "ACT keeps students' original registration folders and answer documents for one year." Also, according to information for the Assessment test on ACT's website (www.act.org), and confirmed by ACT's Assistant Vice President of Applied Research, examinees may direct ACT to drop any or all of their Assessment records from ACT's files at any time.
- Under 34 C.F.R. § 668.150(b)(8), a test publisher must, "[t]hree years after the date the Secretary approves the test and for each subsequent three-year period, analyze the test scores of students to determine whether the test scores produce any irregular pattern that raises an inference that the tests were not being properly administered, and provide the Secretary with a copy of this analysis"
- ACT and the College Board were required to submit analyses of student ATB test scores to ED for their approved ATB tests. ACT was required to submit analyses for its CPAt, Compass, and Asset tests, and the College Board was required to submit analyses for its Accuplacer tests and Descriptive Tests of Language and Mathematical Skills. However, ACT's and the College Board's analyses for these tests were submitted late. The analyses were due no later than October 1999, but ED did not receive the analyses until January 2001.
- ACT's analysis of CPAt ATB test scores did not contain the true CPAt population.
- The College Board's analyses of ATB test scores for both its Accuplacer test and its Descriptive Tests of Language and Mathematical Skills did not contain true test score populations.
- ACT does not identify Assessment tests that are administered for ATB purposes. Therefore, ACT will not be able to prepare the required analysis of Assessment ATB test scores. On February 14, 2002, ACT submitted its three-year analysis to FSA. Our review of the analysis revealed that its data is insufficient and that the submission does not meet the criteria in 34 C.F.R. § 668.150(b)(8).

FSA's procedures do not ensure that ATB test publishers administer only approved editions of ATB tests.

A test publisher that wishes to have its test approved by the Secretary for ATB purposes must submit an application to the Secretary. Under 34 C.F.R. § 668.144(c)(9)—

A test publisher shall include with its application . . . [i]f a test has been revised from the most recent edition approved by the Secretary, an analysis of the revisions, including the reasons for the revisions, the implications of the revisions for the comparability of scores on the current test to scores on the previous test, and data from validity studies of the test undertaken subsequent to the revisions

ACT's Assistant Vice President of Applied Research informed us that, for security purposes, a new edition of ACT's Assessment test is developed each time it is administered. An application for approval of each new edition of the test is not submitted to ED for approval.

FSA's procedures do not ensure that ATB test publishers maintain complete and accurate ATB test records.

The test date field maintained in ACT's CPAt database is a four-digit numeric field that includes only the month and year data for test administrations. Our review of ACT's file documentation for 95 of 73,455 CPAt ATB tests conducted during the period July 1, 1997, through June 30, 2000, revealed that the test date recorded on 9 of the 95 CPAt ATB test answer sheets reviewed (9.5 percent) did not agree with the test date in the CPAt database. In eight instances the wrong test month was recorded in the CPAt database, and in one case the wrong test year was recorded. Sound business practice requires that data collection and recording procedures be reliable and accurate.

Recommendations:

We recommend that the Chief Operating Officer (COO) for FSA—

- 1.1 Establish and implement control activities and monitoring and technical assistance strategies to ensure ED-approved ATB test publishers comply with applicable laws and regulations and with the terms of their agreements with the Secretary; and
- 1.2 Ensure that test publishers improve their processes for identifying and reporting retest errors, to ensure that institutions have accurate and timely information at the time that eligibility determinations are made.

FSA's Reply:

FSA appears to concur with Recommendation 1.1. FSA's response states—

FSA has developed a tracking system to ensure that test publishers comply with the regulatory reporting requirements, and we will follow up on any test score irregularities that are identified by the test publishers. We recognize that the OIG's findings were made only after conducting on-site reviews of the activities of test publishers, and FSA is committed to conducting similar on-site reviews for those test publishers that have not already been reviewed by OIG. We will also provide technical assistance on the ATB regulatory requirements through regular contacts with these publishers, and we may conduct follow-up reviews, as needed.

FSA also appears to generally concur with Recommendation 1.2. FSA's response states that test publishers do not necessarily receive submitted ATB test answer sheets in the chronological order in which they were administered to students. As a result, in retest situations, a test publisher can never guarantee that the official score report truly reflects complete and proper compliance with its retesting rules and procedures. FSA's response explains—

This outcome could only be prevented by requiring "real time" electronic submissions of the completed tests or requiring the school to delay disbursement of student aid funds for a period of time sufficient to eliminate the problem of test results being sent out by the test publisher in reverse order. The "real time" submission requirement would be very costly, and could discourage test publisher participation in the ability-to-benefit testing process at a time when the number of participating test publishers is very limited.

OIG's Response:

Concerning FSA's reply to Recommendation 1.1, we concur with FSA's plans to conduct additional on-site reviews; however, those reviews should be conducted on a periodic basis rather than a one-time basis. FSA's planned actions must ensure it will conduct on-site reviews at test publishers on an ongoing cyclical basis.

Concerning FSA's reply to Recommendation 1.2, we acknowledge that, without a "real time" test submission process, answer sheets for a student who takes an ATB test more than once within a short time period may not be scored in the sequential order in which the tests were taken. Consequently, in a very small number of cases, a school may receive a passing test result for a student who was not retested properly. If this occurs, FSA must ensure that the test publisher has procedures to identify the retesting violation quickly and to notify the school immediately that the passing test score is invalid.

Finding No. 2 ED Entered into an Agreement with ACT that Does Not Meet Regulatory Criteria

ACT's Assessment test is a national college admission examination designed to measure high school students' general educational development and their ability to complete college level work. It is administered on five national test dates each year and covers four content areas: English, mathematics, reading, and science reasoning. ED approved the ACT Assessment test for ATB testing purposes on October 27, 1998.

Under 34 C.F.R. § 668.150(a), "If the Secretary approves a test under this subpart, the test publisher must enter into an agreement with the Secretary that contains the provisions set forth in paragraph (b) of this section before an institution may use the test to determine a student's eligibility for Title IV, HEA program funds." The agreement entered into by ED and ACT for the use of the Assessment test for ATB purposes does not meet all of the criteria required by 34 C.F.R. § 668.150(b).

- Under 34 C.F.R. § 668.150(b)(3), if an independent test administrator commits certain violations, he or she must be decertified by the test publisher "for a period that coincides with the period for which the publisher's test is approved" For the same violations, the agreement between ED and ACT states only that ACT "will not ship test materials to [the] test administrator for a specified period Shipment of tests will resume only after corrections to procedures have been thoroughly documented and approved."

- Under 34 C.F.R. § 668.150(b)(6), the test publisher must “[p]romptly send to the student and the institution the student indicated he or she is attending or scheduled to attend a notice stating the student’s score for the test and whether or not the student passed the test” The agreement between ED and ACT lacks requirements for timeliness of reporting test scores and does not require the determination of a passing grade. The agreement states only that ACT “will generate score reports for answer sheets that it receives from test administrators.”
- Under 34 C.F.R. § 668.150(b)(7), the test publisher must “[k]eep for a period of three years each test answer sheet or electronic record forwarded for scoring and all other documents forwarded by the test administrator with regard to the test” The agreement between ED and ACT states only that ACT “will keep for a period of two years each test answer sheet or electronic record forwarded for scoring.”
- Under 34 C.F.R. § 668.150(b)(8), a test publisher must, “[t]hree years after the date the Secretary approves the test and for each subsequent three-year period, analyze the test scores of students to determine whether the test scores produce any irregular pattern that raises an inference that the tests were not being properly administered, and provide the Secretary with a copy of this analysis” The agreement between ED and ACT does not include this requirement.

Recommendation:

- 2.1 We recommend that the COO for FSA either withdraw ED’s approval of the ACT Assessment test or revise the agreement between ED and ACT to ensure that all criteria for test publishers in Subpart J of 34 C.F.R. Part 668 are met, including but not limited to the requirements in 34 C.F.R. § 668.150.

FSA’s Reply:

FSA appears to concur with our recommendation. FSA’s response states that ACT has decided to withdraw the use of the ACT Assessment scores for ATB purposes.

Finding No. 3 Federal Regulations Regarding Accountability for Title IV, HEA Program Funds Received by Students who Pass Improper ATB Test Administrations Need Improvement

The OIG audit report, “Audit of All-State’s Procedures for Administering ATB Tests” (Control Number ED-OIG/A03-B0014), disclosed that the ITA at All-State Career School (All-State) did not always comply with Wonderlic’s procedures for administering retests of the WBST. The audit found that during the period July 1, 1997, through November 12, 2000, 12 students who received \$57,994 in Title IV, HEA program funds at All-State were improperly admitted to the institution after passing a WBST that was not conducted in accordance with the publisher’s established procedures for retesting. The report recommended that the COO for FSA require All-State to repay the \$57,994 in Title IV, HEA grants and loans made to the 12 students.

All-State responded to the OIG audit and indicated that it did not concur with the finding and recommendation. The OIG reviewed All-State's comments but determined that its position remained unchanged. The audit was then referred to the Case Management and Oversight Division (CMO) of FSA for final resolution. In its final audit determination, CMO determined that the recommended liability for the finding is not supportable.

CMO's final audit determination for the finding states

Section 484 (d) (1) of the Higher Education Act of 1965, as amended, (HEA) provides that students who do not have a high school diploma or its recognized equivalent, or who are not home schooled, may receive Title IV HEA program funds if they take an ability-to-benefit test approved for that purpose by the Secretary, and achieve a passing score on that test that was also approved by the Secretary. . . .

Section 668.154 describes the circumstances under which an institution is liable for disbursements made to ineligible students where the issue of ineligibility turns on whether the student was properly determined to be an "ability-to-benefit" student. That section provides that an institution is liable for such disbursements only if it used a test administrator who was not independent, compromised the testing process in any way, or was unable to document that a subject student received a passing score.

The OIG audit report indicates that All-State used an approved test published by Wonderlic, that the test was administered by an independent test administrator certified by Wonderlic, and that Wonderlic notified All-State that the students in question had passed the test. The audit report further indicates that the test administrator made a mistake and did not follow Wonderlic's rules for giving retests. However, the audit report does not indicate that All-State knew about this error. Thus we have determined that under §668.154, All-State is not liable for any disbursements given retests [sic] by the certified independent test administrator.

Moreover, it is longstanding FSA policy that an institution is not liable for the Title IV program funds it paid to an "ability-to-benefit" student who successfully completes its educational program within its satisfactory academic progress rules even if the student did not actually pass an independently administered and properly administered approved "ability-to-benefit" test. Thus, in any event, All-State would not have been liable for the Title IV program funds it paid to nine of the twelve students who were improperly given retests and completed its programs.

CMO's determination fails to consider All-State's responsibility to maintain ATB test administration records, to determine the eligibility of its students for Title IV funds, and to document that students received passing scores on an approved test.

Under 34 C.F.R. § 668.151(g), institutions must maintain records documenting—

- (1) The test taken by the student;
- (2) The date of the test; and
- (3) The student's scores as reported by the test publisher, assessment center, or State.

Although we agree our audit report did not indicate that All-State had actual knowledge of the improper retests, our audit report did state that All-State had, or should have had adequate information in its student files to determine that the students' tests had not been properly administered. As a result, All-State was required to determine that those students were ineligible to receive Title IV funds. Under its program participation agreement, All-State, not the test publisher or the ITA, is responsible for identifying eligible students.

In addition, under 34 C.F.R. § 668.154(c), an institution is liable for Title IV, HEA program funds disbursed to a student if the institution is "unable to document that the student received a passing score on an approved test." The WBST was approved for use in retesting in accordance with Wonderlic's instructions. Unless the proper retest form was used, or the required 60-day time period had passed, a student did not receive a passing score on a test approved by the Secretary. Since All-State is required by 34 C.F.R. § 668.151(g) to maintain records documenting each students' test information, its records should have shown that the students it sent for retesting did not take the approved version of the test that was applicable to their circumstances.

The twelve students we identified in our report were admitted to All-State solely on the basis of having passed an ATB test that was not administered in accordance with Wonderlic's established procedures. They received \$57,994 in Title IV, HEA funds even though they were not eligible for those funds. Under the policy described in CMO's determination, there is no accountability for the \$57,994 in Title IV, HEA funds that were received by these ineligible students. Under our reading of the HEA and Federal regulations, All-State is responsible for repayment of the \$57,994 in Title IV, HEA funds that were disbursed to ineligible students.

The United States General Accounting Office's "Standards for Internal Control in the Federal Government" requires managers to "determine proper actions in response to findings and recommendations from audits and reviews" In addition, OMB Circular A-50 requires that agencies "[a]ssure that resolution actions are consistent with law, regulation, and Administration policy"

As stated in Finding No. 1, we found that 1,270 applicants passed an improper retest of the WBST for the period of July 1, 1997, through November 12, 2000, and that of those 1,270 applicants, 724 received \$3,362,839 in Title IV, HEA funds according to the NSLDS. We also found that ACT does not have any procedures in place to monitor the testing activity of ITAs for its CPAt. These results suggest that the set of circumstances for our finding at All-State are widespread. Without developing and implementing regulations that clearly assign responsibility under these circumstances, Title IV, HEA program funds may be disbursed to ineligible students and proper audit resolution actions cannot be determined.

Recommendation:

- 3.1 We recommend that the Assistant Secretary for Postsecondary Education initiate appropriate action to ensure that the Federal regulations clearly define the responsibility for liabilities to ED for Title IV, HEA funds received by students on the basis of an improper ATB test administration.

OPE's Reply:

OPE does not concur with our recommendation. OPE states that prior to the passing of the statutory requirement that students who do not have a high school diploma or its equivalent pass an independently administered test approved by ED, institutions administered and scored approved ATB tests. Some institutions abused this process, and awarded Title IV, HEA funds to students who did not legitimately pass an approved ATB test.

OPE explains—

When the regulations implementing the new statutory requirement were promulgated in 1995, one of the underpinnings of the new regulatory scheme was the removal of the institutions from the ATB testing process. Under the regulations, approved ATB tests can only be given by test administrators certified by the test publisher. The test publisher must score the tests and notify the institution and the student whether the student passes the test. In addition, the test administrators must be independent of the institution whose students are taking the test. Institutions are liable if they disburse Title IV, HEA funds to ineligible ATB students if they used test administrators who are not independent of the institution when the test was given, if the institution compromised the testing process in any way, or if the institution does not have documentation from the test publisher that the student received a passing score on the test.

OPE further states that there has been a significant reduction in problems that were associated with ATB students since the change in the statute and the implementing regulations. OPE believes that the structure of the ATB testing process that removes institutions from involvement with testing has led to that reduction. Therefore, it does not believe any changes to the regulations are warranted.

OIG's Response:

Our recommendation remains unchanged. A prior reduction in the number of problems associated with ATB students is not an acceptable justification for inaction in addressing additional unresolved deficiencies.

Our finding identified a significant problem in the ATB testing process, for which up to \$3,362,839 may be at risk. Under OPE's interpretation of the regulations, except in certain limited cases, none of the parties involved in the current ATB process—not the test publisher, the ITA, or the school—would be accountable for this amount. The only way to recover the funds would be to demand payment from the borrower.

Without accountability for these funds, and for any other Title IV, HEA program funds received by students on the basis of improper ATB test administration, there is inadequate incentive for test publishers, ITAs, or schools to identify and correct any deficiencies in the existing process. Consequently, the regulations need to clearly define responsibility for these funds.

OTHER MATTERS

As part of its three-year analysis submitted to FSA in October 1999, Wonderlic performed a detailed review of the cumulative results of its ITA's administrations of the WBST ATB test. Wonderlic's review found that 56 of its ITAs' response patterns and distribution of scores differed significantly from the patterns consistent with proper test administration and handling of test materials. As a result of this review Wonderlic terminated 45 of the 56 ITAs. Wonderlic has decertified an additional ten ITAs, who were not identified as part of the three-year analysis as having irregular response patterns or test score distributions, for failure to comply with WBST testing procedures. During our review at ACT, we found that 7 of the 55 ITAs that have been terminated from administering the WBST, are approved ITAs for the CPAt.

BACKGROUND

The Higher Education Technical Amendments of 1991 amended the HEA, requiring postsecondary students who do not have a high school diploma or its equivalent to pass an *independently administered examination that has been approved by ED before receiving Title IV, HEA program funds*. These examinations are intended to establish that students have the ability to benefit from postsecondary school training programs. This testing has become known as "Ability-to-Benefit" (ATB) testing.

On December 1, 1995, ED published final regulations, effective July 1, 1996, specifying the procedures and requirements for ATB testing which affect test publishers, schools, and ITAs, as Subpart J of 34 C.F.R. Part 668. Compliance with these regulations is mandatory in determining the eligibility of applicants for Title IV, HEA program funds.

ED assesses tests submitted for ATB approval according to the requirements in Subpart J of 34 C.F.R. Part 668. ED approves a test for a period of no more than five years, although the approval can be extended while a subsequent review is conducted to determine re-approval. A list of approved tests and passing scores is published in the Federal Register. The initial list of approved publishers and tests was published in the Federal Register on October 25, 1996.

OBJECTIVE, SCOPE AND METHODOLOGY

The objective of our audit was to determine and evaluate FSA's monitoring methods for ED-approved ATB test publishers for the period of July 1, 1997, through June 30, 2000. To accomplish our objective -

- We had discussions with FSA officials concerning monitoring of ATB test publishers.

- We reviewed the agreements between ED and ATB test publishers regarding the administration of their ATB test programs.
- We reviewed the three-year analyses of ATB test scores submitted to FSA by ATB test publishers.
- We reviewed ATB test publishers' user manuals for their ATB tests.
- We conducted audits at two ATB test publishers to determine if they administered their ATB programs in accordance with their agreements with ED and with applicable laws and regulations: Wonderlic's WBST program (ED-OIG/A03 – B0022), and ACT's CPAt program (ED-OIG/A03 – B0024).
- We reviewed the universe of compliance audit reports and program reviews covering fiscal years 1998 through 2000 that contained ATB audit findings.
- We conducted audits at three schools that use the results of Wonderlic's WBST for determining student eligibility for Title IV, HEA program funds: Lincoln Technical Institute (ED-OIG/A03 – B0013), All-State Career School (ED-OIG/A03 – B0014), and Glendale Career College (ED-OIG/A09-B0017).
- We reviewed CMO's final audit determination concerning our audit of All-State Career School's ability-to-benefit testing process.

During our reviews at Wonderlic and ACT we tested the reliability of computerized WBST and CPAt data by comparing selected data records with the completed tests answer sheets. We concluded that the computerized information was sufficiently reliable for the purpose of our audit at FSA. We did not rely on any computer data processed by FSA.

We conducted our fieldwork at FSA's offices in Washington, D.C., from October 18, 2000, through October 19, 2000. In addition, we held discussions with FSA officials in March 2002. Our exit conference was held on April 3, 2002. Our audit was performed in accordance with generally accepted government auditing standards appropriate to the scope of the audit described above.

STATEMENT ON MANAGEMENT CONTROLS

We have made a study and evaluation of FSA's management control structure for monitoring ED-approved ATB test publishers in effect during our audit period. Our study and evaluation was conducted in accordance with generally accepted government auditing standards. For the purpose of this report, we assessed and classified the significant management control structure into the following category:

- Procedures for monitoring ED approved ATB test publishers

The management of FSA is responsible for establishing and maintaining a management control structure. In fulfilling this responsibility, estimates and judgments by management are required

to assess the expected benefits and related costs of control procedures. The objectives of the system are to provide management with reasonable, but not absolute, assurance that assets are safeguarded against loss from unauthorized use or disposition and that the transactions are executed in accordance with management's authorization and recorded properly, so as to permit effective and efficient operations.

Because of inherent limitations in any management control structure, errors or irregularities may occur and not be detected. Also, projection of any evaluation of the system to future periods is subject to the risk that procedures may become inadequate because of changes in conditions, or that the degree of compliance with the procedures may deteriorate.

Our assessment disclosed the following conditions in the management control structure of FSA in effect during our audit period, which in our opinion, result in more than a relatively low risk that errors, irregularities, and other inefficiencies may occur, resulting in inefficient and/or ineffective performance:

- Inadequate Monitoring of ATB Test Publishers
- Invalid Agreement Between ED and ACT

Material weaknesses are discussed in the AUDIT RESULTS section of this report. Nonmaterial weaknesses, which in the auditors' judgment are reportable conditions, are included in the OTHER MATTERS section.

ADMINISTRATIVE MATTERS

Statements that management practices need improvements, as well as other conclusions and recommendations in this report represent the opinions of the Office of Inspector General. Determination of corrective action to be taken will be made by the appropriate Department of Education officials.

Please provide us with your final response to each open recommendation within 60 days of the date of this report indicating what corrective actions you have taken or plan, and related milestones.

In accordance with Office of Management and Budget Circular A-50, we will keep this audit report on the OIG list of unresolved audits until all open issues have been resolved. Any reports unresolved after 180 days from date of issuance will be shown as overdue in the OIG's Semiannual Report to Congress.

Please provide the Supervisor, Post Audit Group, Office of the Chief Financial Officer and the Office of Inspector General, with quarterly status reports on promised corrective actions until all such actions have been completed or continued follow-up is unnecessary.

In accordance with the Freedom of Information Act (5 U.S.C. § 552), reports issued by the Office of Inspector General are available, if requested, to members of the press and general public to the extent information contained therein is not subject to exemptions in the Act.

We appreciate the cooperation given us in the review. Should you have any questions concerning this report, please call Bernard Tadley, Regional Inspector General for Audit at 215-656-6279.

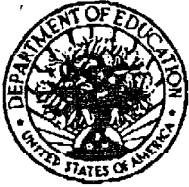
Sincerely,



Thomas A. Carter

Assistant Inspector General for Audit

Attachment



UNITED STATES DEPARTMENT OF EDUCATION

JUL 12 2002

Mr. Bernard Tadley, Regional Inspector General for Audit
U.S. Department of Education
Office of Inspector General
The Wanamaker Building
100 Penn Square East, Suite 502
Philadelphia, PA 19107

Dear Mr. Tadley:

We appreciate the opportunity to respond to your draft audit report (Control Number ED-OIG/A03-B0001) regarding the oversight of ability-to-benefit (ATB) test publishers.

The findings in this audit appear to be based upon three previous audit reports regarding the test administration procedures of specific ATB test publishers—ACT, Wonderlic, and the College Board. In its previous audits, the Office of the Inspector General (OIG) focused on recommendations to improve the test administration practices of these particular test publishers.

This audit focuses on the oversight responsibilities of Federal Student Aid (FSA) and the Office of Postsecondary Education. Our joint response is below.

Actions to Date on Previous Audit Report Findings

Before discussing the OIG recommendations in this draft audit report, we wanted to provide information about our actions to resolve the previous findings. The test publishers have been very responsive to the recommendations made by the OIG in these previous audits. FSA has worked with the identified publishers and they have already taken prompt corrective action. Specifically,

- ACT has established a system to identify the institutions at which each certified independent test administrator is approved for its Career Programs Assessment test (CPAt) test administration. ACT will process and score CPAt ATB answer sheets for an institution only if the answer sheets are submitted by an independent test administrator (ITA) who is approved for testing at that institution.
- ACT will activate a computerized process for applying retest rules to each CPAt ATB answer sheet and has revised its retest procedures to facilitate this monitoring process. FSA has reviewed and approved ACT's new retest procedures.

- Wonderlic began monitoring the retest activities of its ITAs in January 2001. Wonderlic has also agreed to track the retest history of applicants who may have been tested at a different institution. This action will help identify students who have used the same test form within a short period of time.
- The College Board no longer allows institutions to use the DOS or Windows versions of its Accuplacer ATB test. This means that ITAs will no longer have the ability to revise test scores.

Finding No. 1: Oversight of ED-Approved ATB Test Publishers Needs Improvement

Based upon the findings discussed above, the OIG draft audit report recommends changes related to ED's oversight responsibilities of ATB publishers.

Recommendation 1.1: Establish and implement control activities and monitoring and technical assistance strategies to ensure ED-approved ATB test publishers comply with applicable laws and regulations and with the terms of their agreements with the Secretary.

Response: FSA has developed a tracking system to ensure that test publishers comply with the regulatory reporting requirements, and we will follow up on any test score irregularities that are identified by the test publishers. We recognize that the OIG's findings were made only after conducting on-site reviews of the activities of test publishers, and FSA is committed to conducting similar on-site reviews for those test publishers that have not already been reviewed by OIG. We will also provide technical assistance on the ATB regulatory requirements through regular contacts with these publishers, and we may conduct follow-up reviews, as needed.

Historically, ATB test publishers have not been a source of any deliberate efforts to abuse ATB requirements and none of the OIG's findings involve intentional wrongdoing. For these reasons, the Office of Management and Budget has mandated a review of the ATB regulations to determine feasible ways to reduce the regulatory burden on test publishers. The outcome of this review may affect FSA's monitoring procedures.

Recommendation 1.2: Ensure that test publishers improve their processes for identifying and reporting retest errors, to ensure that institutions have accurate and timely information at the time that eligibility determinations are made.

Response: The two test publishers that had findings related to retesting have revised their procedures in ways that will significantly reduce the likelihood of retest errors. We also found that it may not be operationally feasible for some publishers to ensure that an institution will always have accurate and timely information about retesting errors for every single student at the time that eligibility determinations are made by an institution. Thus, even with these improvements a very small risk remains.

For tests that are not given at assessment centers, ITAs are required by regulation to submit completed tests to the test publisher. The test publisher then scores the test and sends the results to the school. This regulatory process is designed to ensure the test is administered independently of the school and to prevent fraud and abuse.

During this period, a student may apply to a different school, and take the same test form from a different test administrator. Depending on the vagaries of the mail, this second test could possibly reach the test publisher, receive a score, and be mailed back to the school before the publisher receives the first test. If the student is eligible, the second school is permitted to disburse student aid as soon as the test score is received from the publisher.

This outcome could only be prevented by requiring "real time" electronic submissions of the completed tests or requiring the school to delay disbursement of student aid funds for a period of time sufficient to eliminate the problem of test results being sent out by the test publisher in reverse order. The "real time" submission requirement would be very costly, and could discourage test publisher participation in the ability-to-benefit testing process at a time when the number of participating test publishers is very limited.

The risk of retesting errors has been reduced significantly. However, it does not appear operationally feasible to completely eliminate the possibility of a few students taking the same test form within a short period of time.

Finding No. 2: ED Entered into an Agreement with ACT that Does Not Meet Regulatory Criteria

ACT's Assessment test is a national college admission examination designed to measure high school students' general educational development and their ability to complete college level work. It is administered on five national test dates each year and covers four content areas: English, mathematics, reading, and science reasoning. ED approved the ACT Assessment test for ATB testing purposes on October 27, 1998, so that students who were home-schooled would not be required to take yet another test to establish their eligibility for student aid. Unfortunately, ACT does not have a mechanism for identifying students who are taking this test for the purpose of fulfilling the ability-to-benefit requirements. These students must be tracked so that ACT can analyze the distribution of test scores for any testing irregularities, as required under current regulations.

Recommendation 2.1: OIG recommends that FSA either withdraw ED's approval of the ACT Assessment test or revise the agreement between ED and ACT to ensure that all criteria for test publishers in Subpart J of 34 CFR Part 668 are met.

Response: ACT has decided to withdraw the use of ACT Assessment scores for ATB purposes. ACT made this decision because they did not have a system in place to track examinees who elected to take the ACT Assessment for ATB purposes. In addition, the OIG had suggested that FSA review every new form of this test before it was administered. ACT does not, as a matter of practice, release secure forms of the ACT Assessment for review by others. New test forms must be developed several times each year to ensure a fair testing process for thousands of college applicants. ACT believes the security risks are too great.

Finding No. 3: Federal Regulations Regarding Accountability for Title IV, HEA Program Funds Received by Students who Pass Improper ATB Test Administrations Need Improvement

Recommendation 3.1: We recommend that the Assistant Secretary for the Office of Postsecondary Education initiate appropriate action to ensure that the Federal regulations clearly define the responsibility for liabilities to ED for Title IV, HEA funds received by students on the basis of an improper ATB test administration.

Response: We do not believe that there is a need to revise the current regulations. Prior to the enactment of the statutory requirement that a student who does not have a high school diploma or its recognized equivalent pass an independently administered test approved by the Secretary, institutions were involved in administering and scoring approved ATB test, and certain institutions used that opportunity to take advantage of the process and award Title IV, HEA funds to student who did not legitimately pass an approved ATB test.

When the regulations implementing the new statutory requirement were promulgated in 1995, one of the underpinnings of the new regulatory scheme was the removal of the institutions from the ATB testing process. Under the regulations, approved ATB tests can only be given by test administrators certified by the test publisher. The test publisher must score the tests and notify the institution and the student whether the student passes the test. In addition, the test administrators must be independent of the institution whose students are taking the test. Institutions are liable if they disburse Title IV, HEA funds to ineligible ATB students if they used test administrators who are not independent of the institution when the test was given, if the institution compromised the testing process in any way, or if the institution does not have documentation from the test publisher that the student received a passing score on the test. This position on institutional liability was clearly spelled out in both the Notice of Proposed Rulemaking (August 16, 1994) and the final regulations (December 1, 1995).

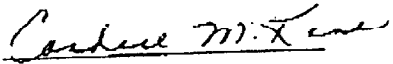
We have seen a significant reduction in the problems that were associated with ATB students since the change in the statute and the implementing regulations and believe that the structure of the ATB testing process that removes institutions from involvement with

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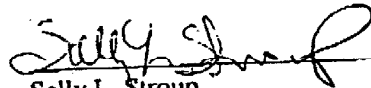
testing has led to that reduction. Therefore, we do not believe that any changes to the regulations are warranted.

We appreciate your efforts to improve the ATB process, and we hope our actions have been responsive to your recommendations.

Sincerely,


for

Greg Woods
Chief Operating Officer
Federal Student Aid



Sally L. Stroup
Assistant Secretary for
Postsecondary Education

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